

A SYNOPSIS OF WORKPLACE DRUG TESTING
POLICIES AND PRACTICES



PREPARED BY

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INTRODUCTION

To an extent, the manner in which people define illness reflects the "good" or "evil" which society ascribes to particular conduct. Commonly held beliefs about what people should or should not do, as well as grave concern about the perceived dangers which the consumption of alcoholic beverages posed to individuals and society, prompted lawmakers to prohibit trafficking in alcoholic beverages. After a time, finding this stance untenable, lawmakers instead turned to stringent regulation of persons trafficking in or consuming alcoholic beverages. Similar beliefs and concerns motivated passage of legislation which outlawed the possession, use, or sale of particular drugs. Such laws called for the imposition of harsh penalties on those who violated them.'

Since the late 1960's, responding to demands for change, lawmakers have focused on the propriety of the prevailing manner of treating alcoholics and drug addicts. Some jurisdictions have altered their laws so as to reflect a shift in attitude toward alcoholism and drug abuse. They have opted to think in terms of assisting persons who cannot resist consuming alcoholic beverages or using particular drugs rather than to continue to classify the behavior of such persons as criminal in nature.'

The history of addictive drugs has been marked by hopes for simple solutions.' Cocaine! Heroin! **PCP**! **THC**! Crack! These and many other mind-altering substances have found their way into the American workplace, a place that extends from Wall Street to Main Street and beyond.' Some authorities approximate that one out of seven members of the **workforce** is affected in some way by significant chemical dependency. Drug abuse, or chemical dependency, has been identified as a major factor in reduced worker productivity, increased tardiness and absenteeism, greater use of medical benefits, more accidents and injuries, and **thefts**.⁵ Since no company or business was immune to these effects, many realized that they had to face the challenge of dealing with drug-impaired workers. To most, there appeared to be a simple solution. The advance of toxicologic technology prompted these people to propose a new solution to this old plague: urine drug **screening**.⁶

The first major response was in 1986. The President's Commission on Organized Crime recommended that public and private employers consider the propriety of drug testing of job applicants and current **employees**.⁷ On September 15, 1986, President Reagan signed Executive Order 12564 establishing the goal of a Drug-Free Federal Workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty.

The problems associated with implementing a drug testing program prompted Congressional hearings in the Spring of 1987. During these hearings, the Senate Committee on the Judiciary expressed its concerns for the serious issues raised by drug testing. In

essence, the Committee stated that drug testing could not reveal when a substance was used or how frequently it had been used, nor could drug tests measure **impairment.**⁸ In addition, serious legal questions were raised, especially about random drug testing. **An** employee's right to privacy had to be balanced against an employer's right to a full day's work for a full day's pay and the public safety expectations.'

As many soon found out, there were far-reaching consequences of urine drug screening. United States military personnel, amateur and professional athletes, and hospitalized overdose patients were being joined by business employees and applicants as subjects for these screenings. **An** addict's freedom, a boxer's world title, an employee's job, and a soldier's future employability could rest on these results. Then there were the serious analytical problems in the theory and practice of toxicology, as well as potential infringements of civil liberties and **injustice.**¹⁰

Recognizing these consequences and to affect implementation of Executive Order 12564, Congress passed legislation in July, 1987 that established uniformity among Federal agencies' drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal Government's drug testing **program.**¹¹ In 1988, the Department of Health and Human Services issued Mandatory Guidelines for Workplace Drug Testing Programs. Because of their unique needs, the Departments of Transportation and Defense, using the Guidelines as a basis, issued drug testing regulations in late 1988. And, the Drug-Free Workplace Act of 1988 required or held out incentives for implementation of **drug-free** workplaces in other than federal agencies.

Regardless of one's opinions and feelings about drug testing, there is agreement that the accuracy of the drug test and the chain of custody must be scrupulously maintained. This is a matter of public concern because an employee's job and personal reputation may rest on the outcome of a single urine **screening.**¹² There is sufficient evidence of abuse by laboratories engaged in drug testing which resulted in citizens losing their jobs, and their rights to employment because drug testing was wrongly **conducted.**¹³ Legal challenges to drug testing programs abound -- all the way to the Supreme Court. The Supreme Court has said ". . . when urine drug testing procedures and methods are done properly, it provides reasonable protection of privacy and confidentiality and it is reliable and **accurate.**"¹⁴

This report provides information to assist employers in their deliberations on whether to establish a workplace drug testing program. This document should not be viewed solely as a guide for implementing a drug testing **program.** There are step-by-step guidelines in the "Model Plan for a Comprehensive Drug-Free Workplace Program" issued by the National Institute on Drug Abuse (NIDA). However, this paper is a synopsis of the most current literature surrounding the issues involved with drug testing:

selecting an accurate and reliable testing method; the importance in following procedures to establish the chain of custody that can withstand legal challenges; and what to look for when selecting a drug testing laboratory. Section IV identifies related issues which should be considered when developing a drug testing program.

It must be remembered that the issue of drug testing in the workplace is dynamic - ever changing. This document should in no way be viewed as a final **.report**, but should be systematically reviewed and updated as technology improves, public concern shifts, and legal challenges are resolved.

DEFINITIONS¹⁵ , ¹⁶

Any discussion of drug abuse or drug testing includes an extensive vocabulary of medical and technical terms. To facilitate the reader's comprehension of ensuing sections, a glossary of terminology routinely used in the literature follows. In addition, drugs are often referred to in several ways -- by their generic name, trade name or by the group to which they belong. For simplicity, a glossary of drugs has been provided by group with some examples provided as further clarification. Caution is suggested since these are not all-inclusive lists.

A. Glossary of Terminology

Accuracy - The characteristic of a test method which indicates correct identification of **drug/metabolite** present.

Blind Testing - Submitting known positive specimens to determine laboratory accuracy.

Chain of Custody - Signature record of individuals who handled specimen.

Chromatography - A method used to separate drugs and metabolizes.

Confirmation Test - Test performed to verify positive screening test results and based on chemical principals different from screening test.

Elimination - Removal of **drug/metabolite** from body.

False Negative - Reporting **drug/metabolite** was not detected when detectable amounts of drug are present in the sample.

False Positive - Reporting **drug/metabolite** was detected when **drug/metabolite** is not present in the sample.

GC Gas Chromatography - A method for separating drugs and **metabolites**.

Immunoassay - Test using antibodies to detect **drugs/metabolites**.

Metabolism - The action of enzymes to chemically alter a drug to facilitate its removal from the body.

Metabolize - The product of metabolism.

Medical Review Officer (MRO) - Reviews test **results** and other facts to see if there is an alternative medical explanation for a positive test result. Also reviews paperwork to ensure that testing was done properly.

MS - Mass Spectrometer - A **detection** device usually attached to a Gas **Chromatograph** that specifically identifies drugs and **metabolites**.

Nanogram/ng - One billionth of a gram (0.000000001 gram).

Negative - Test result indicating **drug/metabolite** is not present above the threshold of the test.

Positive - Test result indicating **drug/metabolite** is present at or above the threshold of the test.

Precision - The characteristic of a testing method which indicates consistency of test results.

Presumptive - Positive results from a screening test at or above the Positive test threshold and not yet confirmed by confirmation analysis.

Probable Cause - Specific event requiring drug testing such as an accident of obvious impairment; also referred to as "reasonable suspicion."

Resolution - Ability of a testing method to discover the exact concentration of drug or drug metabolize in a sample.

Screening Test - Initial test designed to rapidly and reliably distinguish negative specimens from those that may be positive.

Sensitivity - Term commonly used describing the lower limit of detection of a drug testing method and expressed in concentration units.

Specificity - The characteristic of a testing method to identify drug or metabolize without interference by other substances.

Threshold - Defined urine drug concentration which determines presence or absence of **drug/metabolite**.

B. Glossary of Drugs

Amphetamines - **Class** of drugs that act as a powerful stimulant to the central nervous system.

Barbiturates - Class of drugs that act as sedative/hypnotics effective in relieving anxiety and inducing sleep.

Benzodiazepines - Class of drugs used to relieve anxiety and as sleep aids.

Benzoylecgonine - The principal metabolize of cocaine/crack found in the urine and used to provide evidence of cocaine/crack use.

Cannabinoids - Compounds unique to marijuana.

Cocaine - An alkaloid refined from the coca plant that acts as a powerful central nervous system stimulant.

Crack - A form of cocaine which is usually smoked (inhaled).

Dose - Amount of drug administered by individual.

Generic - Common accepted name identifying drug without regard to pharmaceutical manufacturer.

Opiates - The class of narcotic drugs which depress the central nervous system and used to relieve pain.

OTC - Over The Counter - Drugs available without a prescription.

PCP - Phencyclidine - A powerful mood altering drug used illicitly for its hallucinogenic properties.

THC - Biologically active compound present in marijuana.